

**Introduced by Senator Leno**

February 18, 2011

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An act to amend Section 138.6 of the Labor Code, relating to workers' compensation.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 826, as introduced, Leno. Workers' compensation: data reporting requirement: administrative penalties.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law requires the administrative director to develop a cost-efficient workers' compensation information system and requires the administrative director to adopt regulations specifying the data elements to be collected by electronic data interchange.

Existing law establishes the Workers' Compensation Administration Revolving Fund in the State Treasury. Money in the fund may be expended by the Department of Industrial Relations, upon appropriation by the Legislature, for the administration of the workers' compensation program, except as provided, and for the Return-to-Work Program.

This bill would require the administrative director to assess an administrative penalty against a claims administrator for failing to comply with any data reporting requirement as prescribed. This bill would require that a penalty not exceed \$100 for each violation or \$5,000 in any calendar year and would require that the annual maximum penalty be doubled for each consecutive year that the same deficiency results in violations of the same type. This bill would provide that this

penalty is to be deposited in the Workers' Compensation Administration Revolving Fund.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 138.6 of the Labor Code is amended to  
2     read:  
3     138.6. (a) The administrative director, in consultation with  
4     the Insurance Commissioner and the Workers' Compensation  
5     Insurance Rating Bureau, shall develop a cost-efficient workers'  
6     compensation information system, which shall be administered by  
7     the division. The administrative director shall adopt regulations  
8     specifying the data elements to be collected by electronic data  
9     interchange.  
10    (b) The information system shall do the following:  
11    (1) Assist the department to manage the workers' compensation  
12    system in an effective and efficient manner.  
13    (2) Facilitate the evaluation of the efficiency and effectiveness  
14    of the benefit delivery system.  
15    (3) Assist in measuring how adequately the system indemnifies  
16    injured workers and their dependents.  
17    (4) Provide statistical data for research into specific aspects of  
18    the workers' compensation program.  
19    (c) The data collected electronically shall be compatible with  
20    the Electronic Data Interchange System of the International  
21    Association of Industrial Accident Boards and Commissions. The  
22    administrative director may adopt regulations authorizing the use  
23    of other nationally recognized data transmission formats in addition  
24    to those set forth in the Electronic Data Interchange System for  
25    the transmission of data required pursuant to this section. The  
26    administrative director shall accept data transmissions in any  
27    authorized format. If the administrative director determines that  
28    any authorized data transmission format is not in general use by  
29    claims administrators, conflicts with the requirements of state or  
30    federal law, or is obsolete, the administrative director may adopt  
31    regulations eliminating that data transmission format from those  
32    authorized pursuant to this subdivision.

1     *(d) The administrative director shall assess an administrative*  
2     *penalty against a claims administrator for failing to comply with*  
3     *any data reporting requirement adopted pursuant to this section.*  
4     *The administrative director shall promulgate regulations*  
5     *establishing categories of violations. A penalty shall not exceed*  
6     *one hundred dollars (\$100) for each violation or five thousand*  
7     *dollars (\$5,000) in any calendar year for all violations resulting*  
8     *from any single deficiency in the procedures adopted by a reporting*  
9     *entity to comply with the reporting requirements. The annual*  
10    *maximum penalty shall be doubled for each consecutive year the*  
11    *same deficiency results in violations of the same type. Any penalty*  
12    *assessed pursuant to this section shall be deposited in the Workers'*  
13    *Compensation Administration Revolving Fund.*